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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,877	02/25/2004	Robert M. Byrne	ATL-14968	1896
7609	7590	09/09/2005	EXAMINER	
RANKIN, HILL, PORTER & CLARK, LLP 925 EUCLID AVENUE, SUITE 700 CLEVELAND, OH 44115-1405			COLLADO, CYNTHIA FRANCISCA	
		ART UNIT	PAPER NUMBER	
		3618		
DATE MAILED: 09/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	10/786,877	Applicant(s)	BYRNE, ROBERT M.
Examiner	Cynthia F. Collado	Art Unit	3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 February 2004.
2a) This action is FINAL. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.
 4a) Of the above claim(s) 1-13 is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 14-16, 19-24, 26 and 27 is/are rejected.
7) Claim(s) 17, 18 and 25 is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
10) The drawing(s) filed on 25 February 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 6/18/2004.

4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

Art Unit: 3618

DETAILED ACTION

1. Claims 1-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 2/25/2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 14-16, 19, 21-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pham (US Patent No. 6,056,078) in view of Jones (US Patent No. 6,140,609) and further in view of Gipson et al (US Patent No 4,749,191).

Pham teaches a chassis (see figure 1a, element 1), a plurality of wheels mounted to the chassis (see figure 1a, elements 65 and 67), an operator compartment supported on the chassis (see figure 1a, element 16), a battery for providing power to

Art Unit: 3618

the vehicle (see figure 1a, element 38), Pham fails the teaching of a metal step, however Jones discloses a metal step for supporting an operator of the vehicle when the operator enters or leaves the operator compartment (see figure 1, elements 16 and 14), an electrical circuit connecting the heater to the battery (see figure 1, elements 18 and 20), electrical circuit being operable to supply power from the battery to the heater causing the heater to heat the step and melt any snow or ice that may be present on the step (see column 2, lines 33-45). Jones fails the teaching of a tread plate, however Gipson discloses a metal tread plate (see figure 1, element 10), a tread plate with a top surface and bottom surface (see figure 4, element 14 and 30), a tread plate having a plurality of drain holes extending through plate (see figure 1, element 14), a plurality of grip structures extending upwardly from the top surface of the tread plate (see figure 4, element 14). It would have been obvious to one of ordinary skilled in the art at the time of the invention was made to modify the heated automated step of Jones to include an anti-slip tread plate as in Gipson so as to provide the safety of increasing the traction upon the stepping surface of the heated step during snow and rainy weather.

Regarding claim 15, Gipson teaches the tread plate having a plurality of drain holes and a plurality of grip structures extending upwardly from the top surface of the tread plate (see figure 3, element 14).

Regarding claims claim 16 and 24 Gipson teaches the step comprising a plurality of drain structures extending downwardly from the bottom surface of the tread plate and structure defining the drain holes (see figure 2, element 30) also (see figure 3, element 14).

Art Unit: 3618

Regarding claim 21, Jones teaches the electrical circuit including a temperature switch that controls the supply of power and heater (see column 2, lines 55-67).

Regarding claim 22, Jones teaches the electrical circuit including a manual switch located in the operator compartment of the vehicle, which controls the supply of power to the heater (see figure 2, element 22),

Regarding claims 19 and 26, Jones teaches a heater, however fails the teaching of a tread plate in which Gipson discloses. It would have been obvious to one of ordinary skilled in the art at the time of the invention was made to combine the tread plate of Gipson and the heated automated step of Jones to fit securely to the bottom of the surface of the tread plate so as to provide safety to the driver and passenger upon entering and exiting the vehicle.

Regarding claims 20 and 27, Jones discloses the claimed invention except for the thick film heater formed over the bottom surface of the tread plate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the thick film heater formed over the bottom surface of the tread plate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

5.. Claims 17,18 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CFC 8/20/00

JP Ellis

CHRISTOPHER P. ELLIS
PATENT EXAMINER
TECHNOLOGY CENTER 3600

Application/Control Number: 10/786,877

Art Unit: 3618

Page 6